

**In The Matter Of:**

*FE Partners, LLC and Fomento Resources USA (LLC) v.  
Chesapeake Boat Works, LLC, et al*

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*Rebecca D. Lengua  
January 19, 2018*

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**EXHIBIT  
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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF VIRGINIA  
3                   NEWPORT NEWS DIVISION - IN ADMIRALTY  
4  
5                   FE PARTNERS, LLC, and                   )  
6                   FOMENTO RESOURCES USA (LLC),                   )  
7                   Plaintiffs,                   )  
8                   v.                   ) Civil Action No.  
9                   CHESAPEAKE BOAT WORKS, LLC,                   ) 4:16cv188  
10                   CHESAPEAKE MARINE RAILWAY,                   )  
11                   LLC,                   )  
12                   JONATHAN M. FARINHOLT, and                   )  
13                   RICHARD L. FARINHOLT, II,                   )  
14                   Defendants.                   )

15  
16  
17                   VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION OF  
18                   REBECCA D. LENGUA  
19                   TAKEN ON BEHALF OF THE PLAINTIFFS  
20                   RICHMOND, VIRGINIA  
21                   JANUARY 19, 2018  
22  
23  
24  
25

1       Appearances:

2  
3       VENTKER HENDERSON, PLLC  
4       BY: JEANNE E. NOONAN, ESQUIRE  
5       DAVID N. VENTKER, ESQUIRE  
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11       Counsel for the Plaintiffs

12  
13       SANDS ANDERSON, PC  
14       BY: DOUGLAS WINEGARDNER, ESQUIRE  
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19       Dwinegardner@sandsanderson.com  
20       Counsel for the Defendants

21       Also present:

22       DUNTON SIMMONS & DUNTON, LLP  
23       E. STANLEY MURPHY, Esquire  
24       Counsel for the Witness  
25

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1 Deposition upon oral examination of  
2 Rebecca D. Lengua, taken on behalf of the Plaintiffs,  
3 before Jill Hudnall Trail, Registered Professional  
4 Reporter, a Notary Public for the Commonwealth of  
5 Virginia at large, taken pursuant to notice, commencing  
6 at 10:00 a.m. on January 19, 2018, at the offices of  
7 Sands Anderson, 1111 East Main Street, Richmond,  
8 Virginia.

9  
10 THE VIDEOGRAPHER: We are on the record  
11 at 10:02 a.m. Here begins videotape number one in the  
12 deposition of Rebecca Lengua in the matter of FE  
13 Partners, LLC and Fomento Resources USA, LLC versus  
14 Chesapeake Boat Works, LLC, et al, filed in the U.S.  
15 District Court for the Eastern District of Virginia,  
16 Newport News Division, in Admiralty, Civil Action  
17 Number 4:16cv188. This deposition is being held at the  
18 law office of Sands Anderson, 1111 East Main Street in  
19 Richmond, Virginia.

20 Today's date is Friday, January 19th,  
21 2018.

22 The video operator today is Bevin  
23 Armistead. The court reporter is Jill Trail, both  
24 present on behalf of Zahn Court Reporting.

25 Counsel, please state your appearance and

1 firm affiliation for the record.

2 MR. VENTKER: My name is David Ventker  
3 with the firm of Ventker Henderson, and we represent  
4 the plaintiffs.

5 MR. WINEGARDNER: And I am Doug  
6 Winegardner. I'm sorry.

7 MS. NOONAN: My name is Jeanne Noonan. I  
8 am also with Ventker Henderson on behalf of plaintiff.

9 MR. WINEGARDNER: And I am Doug  
10 Winegardner with the firm of Sands Anderson, PC,  
11 representing the defendants.

12 MR. MURPHY: My name is E. Stanley  
13 Murphy. I am with the firm of Dunton, Simmons, and  
14 Dunton. I represent Ms. Lengua and the Deagle Marine  
15 Railway.

16 THE VIDEOGRAPHER: And would the court  
17 reporter please swear in the witness.

18 THE REPORTER: Would you raise your right  
19 hand, please.

20 Do you swear or affirm that the testimony  
21 you're about to give will be the truth, the whole  
22 truth, and nothing but the truth so help you God?

23 THE WITNESS: I do.

24 THE REPORTER: Thank you.

25 MR. VENTKER: Before the deposition

1 begins, I want to note on the record that we object to  
2 Mr. Murphy's participation in this deposition. We  
3 believe he has an ethical conflict which we've  
4 previously given him notice of, and we do not believe  
5 the witness has the right to counsel during the  
6 questioning that's to go on, so we would object to any  
7 attempt by Mr. Murphy to interpose any objections  
8 during the examination of the witness.

9 MR. MURPHY: Mr. Murphy disagrees with  
10 all of those statements.

11 MR. WINEGARDNER: And if you would like,  
12 I would be fine with a continuing objection along those  
13 lines, so that there is no interruption of flow.

14 MR. VENTKER: All right.

15  
16 REBECCA D. LENGUA was sworn and deposed  
17 on behalf of the Defendant as follows:

18 EXAMINATION

19 BY MS. NOONAN:

20 Q. Okay. As we get started this morning,  
21 good morning, Ms. Lengua.

22 A. Good morning.

23 Q. Could you state your name for the record.

24 A. Rebecca Deagle Lengua.

25 Q. Okay. And we'll go over just a few



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1 (The Letter was marked as

2 Plaintiff's Exhibit No. 6.)

3 Can you identify this letter for us.

4 A. Yes. This was prepared at the end of  
5 their Lease, the current term. It expired  
6 October 31st, '16, yeah.

7 Q. And you wrote this letter?

8 A. With counsel.

9 Q. And you signed it?

10 A. I did.

11 Q. Does the letter indicate that Chesapeake  
12 Marine Railway and the Farinholts were in default under  
13 the Lease?

14 A. We had ongoing issues with them. Many  
15 times they made repair or improvements without prior  
16 permission. Most of those were done, and we were the  
17 last to know. And my father at that time got very  
18 upset, and I can't recall the exact words that were  
19 said, but this is pretty clear.

20 Q. Okay. And the letter, the last paragraph  
21 indicates who your attorney was. Was that your  
22 attorney who helped prepare the letter?

23 A. Yes.

24 Q. And who was your attorney at the time?

25 A. I actually started with one attorney, and

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1 when we progressed from normal relations to strained, I  
2 went from Craig Smith to Mr. Murphy.

3 Q. And when did that happen?

4 A. I can't remember the exact date. I'm  
5 sorry.

6 Q. But as of September 14th, 2016, he was  
7 your attorney?

8 A. Oh, yes.

9 Q. This letter indicates -- well, it states  
10 that you have -- you assert that Chesapeake Marine  
11 Railway or the Farinholts damaged at least one railway  
12 on the property, and they may have damaged the other  
13 railway. What is your understanding of the damage that  
14 was done to each railway?

15 MR. WINEGARDNER: Objection to the form  
16 of the question.

17 MS. NOONAN: I'll rephrase.

18 BY MS. NOONAN:

19 Q. What did you believe, when you wrote this  
20 letter, had occurred to the main railway on the  
21 property?

22 A. In my father's personal opinion, they had  
23 done damage by continuously soliciting jobs that were  
24 larger than he was comfortable with, and we had -- he  
25 repeatedly, if I remember correctly, he had repeatedly

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1           A.           As I said, it was when -- after my father  
2           had his mini stroke, his episode, and he didn't feel  
3           competent at that time, so I eased in and helped him  
4           until he felt that he could, he could take it on again.

5           Q.           So we will skip forward a little bit  
6           chronologically, and I am going to hand you a letter  
7           we'll mark Plaintiff's Exhibit 10.

8                       (The Letter was marked as  
9                       Plaintiff's Exhibit No. 10.)

10           Now is this a letter that you wrote to  
11           your tenants?

12           A.           With the help of counsel.

13           Q.           And in that letter you again address the  
14           issue that they were hauling vessels that exceeded the  
15           weight capacity of the equipment?

16           A.           Yes.

17           Q.           So in 2011, you were still concerned that  
18           they were hauling large vessels that exceeded the  
19           capacity of the marine railways?

20           A.           In my father's opinion.

21           Q.           But you sent this letter?

22           A.           Correct.

23           Q.           Who was your counsel in 2011?

24           A.           Craig Smith.

25           Q.           Okay. So he assisted you with this

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1 letter?

2 A. He did.

3 Q. Were you aware in 2011 that your tenants  
4 hauled out the Miss Ann?

5 A. I can't recall in 2011.

6 Q. I am going to give you a list. We'll  
7 call this Plaintiff's Exhibit Number 11.

8 (The List was marked as  
9 Plaintiff's Exhibit No. 11.)

10 It's a document, produced to us by the  
11 defendants, listing the vessels that they had hauled  
12 out previously. On the second page there is a table  
13 with 2011. Does that show that the Miss Ann was hauled  
14 out?

15 A. It does.

16 Q. And is that the same vessel that you had  
17 warned Chesapeake Marine Railway and Chesapeake Boat  
18 Works and the Farinholts about hauling in the 2007  
19 letter?

20 MR. WINEGARDNER: Objection to the form.  
21 BY MS. NOONAN:

22 Q. When you issued a letter in 2007, when  
23 your father did --

24 A. Uh-huh.

25 Q. -- did he make a statement about the